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Legal

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MEMORANDUM FOR: General Counsel

SUBJECT: Applicability of P.L. 737, 83rd Congress, to the Central Intelligence Agency

1. As a result of recent enactment of P.L. 737, 83rd Congress, Federal employees serving overseas are accorded the following travel rights:

a. Travel of the employee and his immediate family, but excluding household effects, from post of duty to place of residence provided the employee completes a specified overseas tour and agrees in writing, prior to departure from overseas, to return to an overseas post upon the completion of leave in the United States.

b. Travel of the immediate family and household effects from post of duty to place of residence prior to the employee's return when the employee is eligible for return travel or when the public interest requires the return of the family due to compelling personal reasons of a humanitarian or compassionate nature. (This travel shall not be authorized to an employee more than once.)

c. Reimbursement of travel expense incurred by an employee in returning his family and household goods to the United States, prior to his return and for reasons other than the public interest, after he acquires eligibility for such travel at Government expense.

2. Since P.L. 737 has general applicability to all employees in the Federal service, we are appreciative that it applies to CIA personnel. Prior to implementing the provisions of the Act by Agency Regulation, however, an opinion is requested concerning the specific applicability of this law versus the coverage of P.L. 110 to CIA employees serving overseas. Whereas P.L. 737 constitutes a new authorization for most Federal agencies, the CIA has authority under section 5(3)(A) of P.L. 110 to grant "Agency home leave" to overseas employees in a PCS duty status provided that the employees have served two years' continuous service overseas and have accrued sufficient annual leave to remain in a pay status for a least 30 calendar days. In addition

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to your general comments on this issue, a specific reply is requested on the following questions:

a. Does P.L. 737, as a general statutory entitlement to all Federal employees, mandatorily apply in cases when employees do not qualify for "Agency home leave"? Specifically, would it apply in the following cases?

(1) To Agency employees stationed in territories and possessions;

(2) To Agency employees who complete overseas tours prescribed by CIA and comprising a period of less than two years' duration;

(3) To Agency employees who would be eligible for "Agency home leave" under P.L. 110 except for the following reasons:

(a) They do not have sufficient leave to remain in a pay status for 30 calendar days and/or

(b) They complete their agreed upon tour of two years but their service is not continuous;

(4) To Agency employees who serve a shorter subsequent tour prescribed by the Agency after having been granted "Agency home leave" (under P.L. 110) upon the completion of a previous tour?

b. Does the Director have discretionary authority to utilize P.L. 737 or P.L. 110 as he deems appropriate in individual cases, assuming both apply, or must one of these authorities be used whenever applicable to the exclusion of the other?

c. Are P.L. 110 and 737 exclusive entitlements, or can P.L. 110 be cited as authority to pay for the shipment of household effects when an employee and his immediate family are eligible under P.L. 737 for travel but not for the shipment of household effects?

d. Can the Agency authorize the advance return travel of dependents under the provisions in P.L. 737 referred to in paragraphs 1b and c above and then authorize "Agency home leave" for the employee concerned at a later date under P.L. 110? This question assumes the employee would have to meet the eligibility requirements for travel in P.L. 737 although no assumption is made that he would have to be authorized to travel under such authority.

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3. Before instituting any regulatory proposals, this Office also desires an interpretation of the following phrases used in the text of P.L. 737:

a. P.L. 737 refers in one instance to "household goods" and in two other cases to "household effects", whereas section 7 of P.L. 600 as amended (to which P.L. 737 is an addition) refers to "household goods and personal effects". Can it be presumed that both phrases used in P.L. 737 relate to household goods and personal effects?

b. Does the phrase "actual place of residence" in P.L. 737 mean the legal residence of an employee which is documented prior to his departure overseas or can an employee, for the purpose of obtaining the benefits of this Act, effect a change or declare a change in his residence anytime prior to returning to the United States?

c. How inclusive is the phrase "Territories and possessions" in terms of trusts, etc.?

d. Must an overseas employee qualifying under P.L. 737 for travel to place of residence possess a minimum amount of accrued leave? The new law refers only to travel "for the purpose of taking leave".

e. Must an employee return overseas immediately upon the completion of leave in the U. S. or would it be sufficient for him to agree in writing to return to an overseas post as soon as the Agency effects an assignment? If the latter situation is correct, it is presumed that an employee could remain in headquarters for such period as is operationally required for training the employee or for determining his next overseas assignment.

f. Are the advance return of an employee's dependents and the shipment of his household goods in cases of a humanitarian or compassionate nature confined to those examples cited in P.L. 737 or are these illustrative examples of the basic criterion in the Act, namely "personal reasons of a humanitarian or compassionate nature?" As a corollary to the above, can the Agency define by regulation specific criteria for granting such travel, either specifying additional or fewer criteria than are expressed in P.L. 737?

g. Since the Act does not contain an effective date, it is presumed that the law becomes effective immediately unless the implementation of P.L. 600 and all amendments thereto is contingent upon the formulation of administrative regulations which have general applicability in the Federal Service. This Office will be happy to discuss this

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subject with you prior to the preparation of an opinion if you desire.

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for Personnel